Remarks

Claims 1-10 are pending in the present application. To expedite prosecution of the present application, Claim 1 is being cancelled. Applicants reserve the right to further pursue, in a related application, claims consistent with the scope of Claim 1.

No new matter has been added by this amendment.

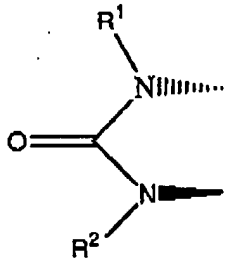
The Examiner's rejection of pending Claims 1-10, as amended, shall now be addressed.

Rejection of Claims 1-10 Under 35 USC 103(a)

The Examiner has rejected pending Claims 1-10 under 35 USC 103(a) as being obvious over International Application WO 00/26244, by Kaneko *et al.* (hereinafter "Kaneko *et al.*") in view of US Patent No. 5,747,467 by Agouridas *et al.* (hereinafter "Agouridas *et al.*").

Specifically, the Examiner stated that Kaneko *et al.* disclose compounds identical to those claimed in the present invention with the exception that the compounds of Kaneko *et al.* did not disclose compounds having a halo substituent at the 2-position. The Examiner also stated that macrolides having a halo substituent at the 2-position are well known in the art, such as are disclosed by Agouridas *et al.* The Examiner further stated that one of ordinary skill in the art at the time the instant invention was made would have been motivated to modify the compounds of Kaneko *et al.* with a 2-position halo substituent in accordance with the teaching of Agouridas *et al.*

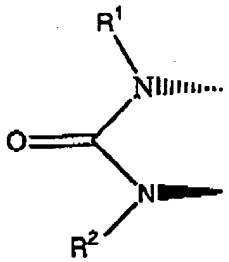
The compounds of the present invention, as recited in amended Claim 1, relate to erythromycin compounds, having an 12,11-[12-N-R^2-substituted-aminocarbonyl imino] substituent shown below,



wherein R^2 is a C_1-C_{10} alkyl or a C_2-C_{10} alkenyl, and a bi-substituted 2-position carbon which is substituted with a methyl group and a halo group.

Kaneko *et al.*

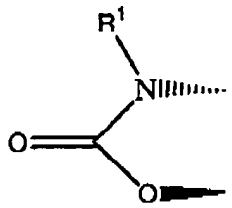
Kaneko *et al.* disclose an erythromycin, having a 12,11 aminocarbonyl imino substituent shown below,



and a methyl-substituted 2-position carbon. However, Kaneko *et al.* neither disclose nor suggest an erythromycin wherein 2-position carbon is bi-substituted with a methyl substituent and a halo substituent. Further, Kaneko *et al.* neither disclose nor suggest the a method for halogenating erythromycins.

Agouridas *et al.*

Agouridas *et al.* disclose an erythromycin, having a 12,11 oxycarbonyl imino substituent shown below



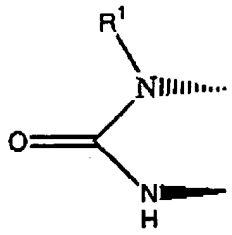
instead of the 12,11 aminocarbonyl imino substituent of the present invention, and a 2-position carbon which is bi-substituted with a methyl substituent and a halo substituent. Agouridas *et al.* further disclose a method for halogenating a 12,11 oxycarbonyl imino substituted erythromycin.

However, Agouridas *et al.* neither disclose nor suggest (1) an erythromycin having an 12,11-[12-N-R^2-substituted-aminocarbonyl imino] substituent, (2) a method for halogenating a 12,11-aminocarbonyl imino substituted erythromycin whose 12-N amino is unsubstituted, or (3) a method for further substituting the 12-N-amino group with an R^2 substituent after halogenating the erythromycin.

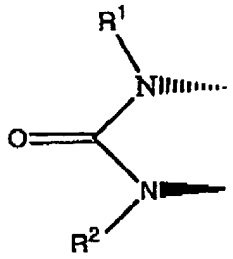
Kaneko *et al.* in view of Agouridas *et al.*

Kaneko *et al.* in view of Agouridas *et al.* neither disclose nor suggest the compounds of the present invention as described in amended Claim 2 or a method to make the compounds of amended Claim 2. Specifically, Kaneko *et al.*, in combination with of Agouridas *et al.*, neither disclose nor suggest (1) an 2-position halogenated erythromycin having an 12,11-[12-N-R^2-substituted-aminocarbonyl imino] substituent, (2) a method for halogenating a 12,11-aminocarbonyl imino substituted erythromycin whose 12-N amino is unsubstituted, or (3) a method for further substituting the 12-N-amino group with an R^2 substituent after halogenating the erythromycin.

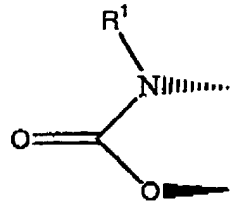
The compounds of Claim 2, as amended, of the present invention, as described on Specification page 10, are prepared by halogenating an erythromycin compound having the following 11,12 substituent



to substitute a halo at the 2-position. This halogenated erythromycin is then reacted under basic conditions with R^2-L, wherein L is a leaving group, to substitute the 12-N-amino group with R^2 and form a 2-position halo erythromycin having the 11,12 substituent



Agouridas *et al.* only disclose the halogenation of an erythromycin, having the 11,12 oxycarbonyl imino substituent



and neither disclose, nor suggest, nor teache a method to further substitute the 12-N-amino group of a halogenated 12,11 aminocarbonyl imino erythromycin. Further, Agouridas

et al. neither disclose nor suggest the substitution of any erythromycin after halogenation.

Kaneko et al. do not solve the deficiencies in the teachings of Agouridas *et al.* as Kaneko *et al.* neither disclose nor suggest the synthesis of any halogenated erythromycin.

Therefore, the compounds of the present invention, as recited in amended Claim 2, are not obvious in view of the combined teachings of Kaneko *et al.* and Agouridas *et al.*

Conclusion

Based upon the present amendment, and in view of the above, Applicants respectfully submit that the Examiner's rejection, under 35 USC 103(a) of pending Claims 2-10, as amended, is not proper. Therefore, Applicants respectfully request that this rejections of Claims 2-10, as amended, be withdrawn. Applicants further request that a notice of allowance be issued for pending Claims 2-10.

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Respectfully Submitted:

Scott Alexander McNeil
Attorney for Applicants
Registration No. 37,185

Pfizer Inc.
Patent Department, Box 519
Eastern Point Road
Groton, Connecticut 06340
(860) 686-1848